IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

MFA.No. 16 of 2003()

OPMV.494/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA
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APPELLANT: PETITIONER

A.M.FRANCIS S/O. LATE MATHAI,
AGED 33 YEARS, ARIYAPALLIL HOUSE, KAMMANA POST,
MANANTHAVADY TALUK, WAYANAD DISTRICT

BY ADV. SRI.N.J.ANTONY

RESPONDENTS: RESPONDENTS
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1. JOSE T.J. S/O. JOSEPH, AGED 49 YEARS,
THURACKAL HOUSE, KAMMANA POST, MANANTHAVADY
TALUK, WAYANAD DISTRICT.(DRIVER-CUM-OWNER OF
AUTORICKSHAW NO. KI-12/4313)

2. UNITED INDIA INSURANCE CO. LTD.,
KALPETTA.

R1 BY ADV. SRI.C.P.MOHAMMED NIAS
R2 BY SRI.P.R.RAMACHANDRA MENON

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 24/ 10/2003, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & K. HEMA, JJ.

M.F.A.No. 16 of 2003

Dated this the 24th day of October, 2007.

JUDGMENT

Radhakrishnan, J:

Claimant is the appellant. Accident is not disputed. So also, the insurance coverage. The only question to be decided is whether amount of compensation awarded is just and proper. Learned counsel for the claimant submitted that adequate amount has not been granted for permanent disability. The Tribunal has awarded only a consolidated amount of Rs.52450/- assessing the permanent disability at 18%.

2. We have perused Ext.A6 certificate issued by the private hospital on 5.6.1996. The certificate reads as follows:

> "He was treated with open reduction and internal fixation for (Lt) Femur and Closed Reduction for (Rt) leg with P.O.P. Cast. Now the fractures are united well and he is walking with occasional pain in the (Lt) Knee and mild limitation of (Rt) ankle movements and with a mild varus deformity of (Rt) lower leg. These all together contribute a total 18% of permanent physical impairment and loss of physical function to (Rt) foot and (Lt) knee (13% to (Rt) foot and 5% to (Lt) knee)."

3. The certificate indicates that there is no permanent disability. According to the Tribunal, Ext.A5 is a concocted document. Still, the Tribunal accepted the version of the claimant and fixed the monthly income at Rs.3000/-. For pain and suffering Rs.10,000/- was granted. Considering the fact that he was in the hospital for 21 days and the nature of injuries, we are inclined to grant Rs.2500/- in addition to the amount already awarded by the Tribunal . The additional amount of Rs.2500/- will carry interest at 7.5% from the date of petition till payment.

M.F.A. is disposed of as above.

SD/-

K.S. RADHAKRISHNAN,
JUDGE.

SD/-

K. HEMA,
JUDGE.

Krs.

K.S. RADHAKRISHNAN & K. HEMA, JJ.

M.F.A.No. 16 of 2003

24th day of October, 2007.

JUDGMENT